

Misconduct and Discipline

New Regulation 35.10

A submission from the Chairman of the Constitution Committee

Purpose or Objective

Further to the purposes in Submission 037-14, ISAF needs a Regulation to state the scope of ISAF's review, and the legal status of disciplinary decisions made by an MNA or by an international jury, or following an investigation by the Ethics Commission,.

Proposal

Insert new Regulation 35.10 as follows (and renumber):

35.10 If a report is received following a hearing conducted by a Member National Authority or an international jury appointed by ISAF, or following an investigation by the ISAF Ethics Commission, the Disciplinary Commission shall be bound by the facts stated in the report unless the following apply:

- (a) there has been an incorrect application of the Racing Rules of Sailing;**
- (b) there has been an incorrect application of the ISAF Constitution, ISAF Regulations, the principles of natural justice or any law;**
- (c) there has been bad faith, malice, bias or arbitrariness; or**
- (d) the facts reported are inadequate.**

Current Position

No current clarity.

Reasons

1. In cases where an MNA or international jury appointed by ISAF has conducted a hearing, the Commission should be able to proceed based on the facts found by the MNA/jury and not to have re-hear the case from the beginning.
 2. This approach mirrors the provisions of the RRS relating to appeals from protest committee decisions from MNAs.
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